

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE OF WISCONSIN, ex rel.
and TYRONE DAVIS SMITH,

Petitioners,
v.

ORDER

Case No. 17-cv-49-bbc

STATE OF WISCONSIN COURT OF
APPEALS, DISTRICT ONE,

Respondents.

Petitioner Tyrone Davis Smith seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner requests leave to proceed without prepayment of the filing fee. Petitioner has supported this request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from petitioner's trust fund account statement, I find that petitioner is able to pay the filing fee. Accordingly, I will deny petitioner's application for leave to proceed without prepayment of the filing fee. To proceed further on this habeas petition, petitioner must pay the \$5 filing fee. If petitioner fails to pay the fee by February 15, 2017, the petition, I will assume that petitioner wishes to withdraw this petition.

ORDER

IT IS ORDERED that:

1. Petitioner Tyrone Davis Smith's motion for leave to proceed without prepayment of the filing fee is DENIED. Petitioner has until February 15, 2017 in which to pay the \$5 filing fee.

2. If by February 15, 2017 petitioner fails to submit the \$5 filing fee, I will assume that petitioner wishes to withdraw this petition.

Entered this 24th day of January, 2017.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge